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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/091,470	03/07/2002	Kenichi Satou	F05-138814M/ARK	2859
21254	7590	09/24/2004	EXAMINER	
MCGINN & GIBB, PLLC 8321 OLD COURTHOUSE ROAD SUITE 200 VIENNA, VA 22182-3817			PEDDER, DENNIS H	
			ART UNIT	PAPER NUMBER
			3612	

DATE MAILED: 09/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/091,470

Applicant(s)

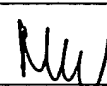
SATOU, KENICHI

Examiner

Dennis H. Pedder

Art Unit

3612



- The MAILING DATE of this communication appears on the cover sheet with the correspondence address -

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 August 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 14-25 is/are rejected.
- 7) ☒ Claim(s) 8-13 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3, 19, 20, 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Kenichi, 2000-006739.

Kenichi has bumper face 12, cross member 20, under cover 18 (under the upper absorber 16 and at a lower body portion), and lower impact absorbing member 18f formed in one piece with the under cover 18.

As to claim 2, Kenichi has rib at 18d extending forward and opposed, beads 18g between the rib and cross member both formed integrally with the under cover 18.

As to claim 18, the rib 18d is parallel to the lower face.

As to claim 19, Kenichi uses clips 22 (clip: a device that grips or holds tightly, Random House College Dictionary, 1980).

As to claim 20, the beads are hollow substantially rectangular protruding members.

As to claim 25, this is an inherent feature of an impact structure.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 20 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The beads are not rectangular due to the locking features at rear.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 2, 4-5, 17-18, 21-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kenichi in view of Iwamoto et al..

As to claim 4, see the discussion of column 6. It would have been obvious to one of ordinary skill to provide in Kenichi a protruding lower absorber 12 and relative hardness of the upper and lower absorbers as taught by Iwamoto et al. in order to prevent pedestrian injury.

As to claim 17, see column 6, lines 23-24 of Iwamoto et al..

As to claim 21, Iwamoto et al. teach in figures 31-33, that the beads 45 are between the rib 42 and the cross member 10 (claim 2) and that the forward region is low impact due to the smaller thicknesses of beads 43 and the higher thickness of beads 45.

As to claims 22, see column 6 of Iwamoto et al..

As to claim 24, Iwamoto et al. has lower portion more forward.

7. Claims 6-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kenichi or Kenichi in view of Iwamoto et al. as applied to claims 2 and 5 above and further in view of Murchie.

The rib of Kenichi is undefined as to length relative the cross member. Murchie teaches that an absorbing member may splay out to a greater lateral extent than a mounting structure 16 in a sectorial shape. It would have been obvious to one of ordinary skill to provide in Kenichi or Kenichi as modified by Iwamoto et al. an extended bead shape as taught by Murchie in order to promote progressive collapse.

8. Claims 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kenichi in view of Leng.

Kenichi attaches the undercover to a front portion of the cross member. Leng teaches that an undercover may be attached at a lower portion of its supporting structure. This feature is deemed to be within the level of skill of one of ordinary skill in the art and, since the undercover is supported at a front face of the cross member, is not deemed to effect the function of the device in any significant manner, hence not worthy of patent protection. It would have been obvious to one of ordinary skill to provide in Kenichi undercover attachment at a bottom portion of the support as taught by Leng in order to allow easy access for securing.

As to claim 15, the undercover of Leng extends rearwardly of its support in figure 1.

9. Claim 15 is further and claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kenichi in view of Bemiss.

It would have been obvious to one of ordinary skill to extend the undercover of Kenichi rearwardly to a second cross member as taught by Bemiss at 16/34 in order to protect the engine from damage.

*Allowable Subject Matter*

10. Claims 8-13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

*Response to Arguments*

11. Applicant's arguments filed August 11, 2004 have been fully considered but they are not persuasive.

Applicant's arguments are not clearly and succinctly stated, but as best understood, applicant does not believe that the member 18 of Kenichi is an undercover. This is an incredible assertion given that this member is located at a lower portion of the body and covers the gap between the bumper fascia 12 and the cross member 20 and thus is discounted as an illogical and self-serving statement to no effect.

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dennis H. Pedder whose telephone number is (703) 308-2178. The examiner can normally be reached on 5:30-2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn D. Dayoan can be reached on (703) 308-3102. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Dennis H. Pedder  
Primary Examiner  
Art Unit 3612

DHP  
9/21/2004

9/21/04